

HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DOUGLAS BISHOP, as an individual, and as
Personal Representative for the ESTATE OF
QUINCY BISHOP, and on behalf of B.G.B. and
M.D.B, minors, VICTORIA BISHOP, as an
individual, CORY BISHOP and KIARA
BISHOP and the marital community comprised
thereof,

Plaintiffs,

v.

CITY OF BUCKLEY, a political subdivision
of the State of Washington d/b/a Buckley
Police Department, ARTHUR FETTER, an
individual, and KURT ALFANO, an
individual,

Defendants.

NO. 3:22-cv-05759-BHS

DEFENDANTS' ANSWER TO
PLAINTIFFS' COMPLAINT

COME NOW Defendants City of Buckley, Arthur Fetter, and Kurt Alfano (herein
"Defendants") and by way of answer to Plaintiffs' Complaint (dkt. # 1), admit, deny, and allege as
follows:

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DEFENDANTS' ANSWER TO
PLAINTIFFS' COMPLAINT - 1
(3:22-cv-05759-BHS)

CHRISTIE LAW GROUP, PLLC
2100 WESTLAKE AVENUE N., SUITE 206
SEATTLE, WA 98109
206-957-9669

1. Answering paragraph 1, Defendants deny all allegations.

I. PARTIES

2. Answering paragraph 2, Defendants admit that the City of Buckley (“City”) is a municipal entity within the State of Washington. Defendants further admit the Buckley Police Department (“BPD”) is a subdivision of the City and that BPD provides law enforcement services. Except as admitted, Defendants deny all allegations in paragraph 2.

3. Answering paragraph 3, Defendant Kurt Alfano is the Chief of Police of the City of Buckley Police Department, but deny that he held that position on November 1, 2020. Except as admitted, Defendants deny all allegations in paragraph 3.

4. Answering paragraph 4, Defendants admit the allegations.

5. Answering paragraph 5, Defendants deny all allegations in for lack of information.

6. Answering paragraph 6, Defendants deny all allegations for lack of information.

7. Answering paragraph 7, Defendants deny all allegations for lack of information.

8. Answering paragraph 8, Defendants deny all allegations for lack of information.

9. Answering paragraph 9, Defendants admit the November 1, 2020 incident put at issue by Plaintiffs’ Complaint occurred near the home of Cory Bishop. Except as admitted, Defendants deny all allegations in paragraph 9.

10. Answering paragraph 10, Defendants admit the November 1, 2020 incident put at issue by Plaintiffs’ Complaint occurred near the home of Kiara Bishop. Except as admitted, Defendants deny all allegations in paragraph 10.

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11. Answering paragraph 11, Defendants admit that Quincy Ivan Bishop was shot and killed in his truck during the November 1, 2020 incident put at issue by Plaintiffs' Complaint. Except as admitted, Defendants deny all allegations in paragraph 11.

12. Paragraph 12 does not require an answer from Defendants.

II. JURISDICTION AND VENUE

13. Answering paragraph 13, Defendants admit the allegations.

14. Answering paragraph 14, Defendants admit that the venue is proper. Except as admitted, Defendants deny all allegations in Paragraph 14.

III. STATUTORY COMPLIANCE

15. Answering paragraph 15, Defendants admit the allegations.

16. Answering paragraph 16, Defendants deny the allegations as overly broad legal conclusions.

IV. STATEMENT OF FACTS

17. Answering paragraph 17, Defendants deny all allegations.

18. Answering paragraph 18, Defendants admit that on November 1, 2020 Officer Fetter, who was investigating an alleged domestic violence incident involving Quincy Bishop, spoke with Cory Bishop and asked him if his brother, Quincy Bishop, was at Cory Bishop's home. A short time later, Cory Bishop contacted Officer Fetter and told him Quincy Bishop had recently arrived at Cory Bishop's house. Officer Fetter told Cory Bishop he was waiting for another officer and would be at Cory Bishop's house shortly. Except as admitted, Defendants deny all allegations in paragraph 4.18.

19. Answering paragraph 19, Defendants admit that on November 1, 2020 at approximately 9:00 p.m. Officer Fetter arrived at 1721 Kilt Ct., Puyallup, Washington to contact

1 Quincy Bishop regarding an alleged domestic violence incident that had occurred earlier the same
2 day. Except as admitted, Defendants deny all allegations in paragraph 19.

3 20. Answering paragraph 20, Defendants admit Officer Fetter knew Cory and Quincy
4 Bishop and was in the same high school graduating class as Cory Bishop. Except as admitted,
5 Defendants deny all allegations in paragraph 20.

6 21. Answering paragraph 21, Defendants admit that as he approached 1721 Kilt Ct.,
7 Puyallup, Washington, Officer Fetter was accompanied by Officer Barclay Tuell of the Puyallup
8 Police Department, Deputy Bryan Ashmore of the Pierce County Sheriff's Department, and Deputy
9 Travis Calderwood of the Pierce County Sheriff's Department. When Officer Fetter arrived at the
10 address, Cory and Quincy Bishop were standing inside of the home looking out of the window. When
11 Officer Fetter exited his patrol vehicle, Quincy Bishop was on the walkway outside of the home.
12 Except as admitted, Defendants deny all allegations in paragraph 21.

13 22. Answering paragraph 22, Defendants admit that Officer Fetter told Quincy Bishop he
14 needed Quincy to come back to the police station with him. Except as admitted, Defendants deny all
15 allegations in paragraph 22.

16 23. Answering paragraph 23, Defendants deny all allegations.

17 24. Answering paragraph 24, Defendants admit that Officer Fetter ordered Quincy Bishop
18 to get out of the vehicle and Mr. Bishop failed to comply with that order. After Mr. Bishop failed to
19 comply with Officer Fetter's order to get out of the vehicle, Officer Fetter grabbed Mr. Bishop's left
20 arm in a lawful effort to remove him from the vehicle, but Quincy Bishop continued to resist and
21 began to draw a semi-automatic handgun from his waistband. Except as admitted, Defendants deny
22 all allegations in paragraph 24.

1 25. Answering paragraph 25, Defendants admit that Officer Fetter fired one round from
2 his service pistol to prevent Mr. Bishop from shooting him and/or other officers in the area.
3 Defendants further admit that officers from other law enforcement agencies also fired their weapons
4 in response to the deadly threat Quincy Bishop posed. Defendants further admit that Quincy Bishop
5 died. Except as admitted, Defendants deny all allegations in paragraph 25.

6 26. Answering paragraph 26, Defendants deny all allegations.

7 27. Answering paragraph 27, Defendants deny placing Cory Bishop in a patrol car, and
8 deny for lack of information all allegations that officers from other agencies placed Cory Bishop in a
9 patrol car. Defendants deny all other allegations in paragraph 27.

10 28. Answering paragraph 28, Defendants admit Quincy Bishop had been placed next to
11 his vehicle and he had multiple gunshot wounds. Except as admitted, Defendants deny all allegations
12 in paragraph 28.

13 29. Answering paragraph 29, Defendants deny all allegations.

14 30. Answering paragraph 30, Defendants deny all allegations.

15 31. Answering paragraph 31, Defendants deny all allegations.

16 32. Answering paragraph 32, Defendants deny all allegations.

17 33. Answering paragraph 33, Defendants deny all allegations.

18 **V. FIRST CAUSE OF ACTION – UNCONSTITUTIONAL USE OF**
19 **EXCESSIVE FORCE**

20 34. Answering paragraph 34, Defendants deny all allegations.

21 35. Answering paragraph 35, Defendants deny all allegations.

22 36. Answering paragraph 36, Defendants deny all allegations.

37. Answering paragraph 37, Defendants deny all allegations.

38. Answering paragraph 38, Defendants deny all allegations.

39. Answering paragraph 39, Defendants deny all allegations.

40. Answering paragraph 40, Defendants deny all allegations.

VI. SECOND CAUSE OF ACTION – VIOLATIONS OF CONSTITUTIONAL RIGHTS BY DEFENDANT CITY OF BUCKLEY AND POLICY MAKERS

41. Answering paragraph 41, Defendants deny all allegations.

42. Answering paragraph 42, Defendants deny all allegations.

43. Answering paragraph 43, Defendants deny all allegations.

44. Answering paragraph 44, Defendants deny all allegations.

45. Answering paragraph 45, Defendants deny all allegations.

VII. THIRD CAUSE OF ACTION – VIOLATIONS OF CORY BISHOP'S CONSTITUTIONAL RIGHTS BY DEFENDANTS

46. Answering paragraph 46, Defendants deny all allegations.

47. Answering paragraph 47, Defendants deny all allegations.

VIII. FOURTH CAUSE OF ACTION – NEGLIGENCE INFLICTION OF EMOTIONAL DISTRESS

48. Answering paragraph 48, Defendants deny all allegations.

49. Answering paragraph 49, Defendants deny all allegations.

IX. FIFTH CAUSE OF ACTION – NEGLIGENCE – CITY OF BUCKLEY

50. Answering paragraph 50, Defendants deny all allegations.

51. Answering paragraph 51, Defendants deny all allegations.

52. Answering paragraph 52, Defendants deny all allegations.

53. Answering paragraph 53, Defendants deny all allegations.

54. Answering paragraph 54, Defendants deny all allegations.

55. Answering paragraph 55, Defendants deny all allegations.

56. Answering paragraph 56, Defendants deny all allegations.

X. PRAYER FOR RELIEF

57. Answering paragraphs 57 through 62, Defendants deny all allegations and deny that Plaintiffs are entitled to any relief.

FURTHER, AND BY WAY OF AFFIRMATIVE DEFENSES, Defendants allege as follows:

FIRST AFFIRMATIVE DEFENSE

Plaintiffs have a duty to mitigate their damages. To the extent Plaintiffs have failed to mitigate their damages, their recovery, if any, must be reduced.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' damages, if any, were a direct and proximate result of the actions or omissions of third parties over which Defendants had no control, and for which Defendants bear no liability or responsibility whatsoever. Defendants may be entitled to an allocation of fault and damages pursuant to RCW 4.22.070 from the City of Puyallup and Pierce County, as well as others who may be identified during discovery.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' negligence claims are barred by the Public Duty Doctrine.

FOURTH AFFIRMATIVE DEFENSE

Officer Fetter and Chief Alfano are entitled to qualified immunity under state and federal law.

1 FIFTH AFFIRMATIVE DEFENSE

2 All actions of the City of Buckley and its police officers were performed in good faith, were
3 reasonable, were based on probable cause, and were within their lawful authority.

4 SIXTH AFFIRMATIVE DEFENSE

5 Quincy Bishop's injuries were proximately caused by his own acts and omissions and
6 Plaintiffs' recovery, if any, must be proportionately reduced.

7 SEVENTH AFFIRMATIVE DEFENSE

8 Quincy Bishop assumed the risk of any alleged injuries.

9 EIGHTH AFFIRMATIVE DEFENSE

10 The answering Defendants did not breach any duty of care owed to Plaintiffs.

11 NINTH AFFIRMATIVE DEFENSE

12 The answering Defendants did not proximately cause any damages to Plaintiffs. Any alleged
13 injuries were proximately caused by the superseding and intervening acts of other officers on the
14 scene employed by the City of Puyallup and/or Pierce County, Washington.

15 TENTH AFFIRMATIVE DEFENSE

16 Quincy Bishop was committing a felony at the time he sustained alleged damages, and
17 Plaintiffs' state law claims are therefore barred pursuant to RCW 4.24.420.

18 ELEVENTH AFFIRMATIVE DEFENSE

19 By way of reservation of rights, without waiver, Defendants specifically reserve the right
20 to amend their answer and affirmative defenses herein, including adding counterclaims and third-
21 party claims as additional investigation, discovery or circumstances may warrant.

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1 WHEREFORE, having fully answered Plaintiffs' complaint and asserted affirmative
2 defenses, Defendants pray for relief as follows:

- 3 1. That Plaintiffs' complaint be dismissed with prejudice and that they take nothing thereby;
4 2. That Defendants be awarded costs and attorneys' fees as allowed by law; and
5 3. That Defendants be awarded such other and further relief as the court deems just.

6 DATED this 27th day of October, 2022.

7 CHRISTIE LAW GROUP, PLLC

8 By /s/ Thomas P. Miller
9 THOMAS P. MILLER, WSBA #34473
10 Attorney for Defendants City of Buckley,
11 Arthur Fetter, and Kurt Alfano
12 2100 Westlake Avenue North, Suite 206
13 Seattle, WA 98109
14 Telephone: (206) 957-9669
15 Email: tom@christielawgroup.com

CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

John R. Connelly, Jr., WSBA #12183
Meaghan M. Driscoll, WSBA #49863
Samuel J. Daheim, WSBA #52746
CONNELLY LAW OFFICES
2301 N 30th St
Tacoma, WA 98403
Telephone: 253-593-5100

Email: jconnelly@connelly-law.com; mdriscoll@connelly-law.com;
SDaheim@connelly-law.com;

CHRISTIE LAW GROUP, PLLC

By /s/ Thomas P. Miller
THOMAS P. MILLER, WSBA #34473
Attorney for Defendants City of Buckley,
Arthur Fetter, and Kurt Alfano
2100 Westlake Avenue North, Suite 206
Seattle, WA 98109
Telephone: (206) 957-9669
Email: tom@christielawgroup.com